

1 ANDRÉ BIROTTE, JR.
United States Attorney
2 LEON W. WEIDMAN
Assistant United States Attorney
3 Chief, Civil Division
RUTH M. KWON (SBN: 232569)
4 Assistant United States Attorney
Federal Building, Suite 7516
5 300 North Los Angeles Street
Los Angeles, California 90012
6 Telephone: (213) 894-3038
7 Fax: (213) 894-7819

8 Attorneys for the Plaintiff
SETH D. HARRIS, Acting Secretary of Labor,
9 United States Department of Labor

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
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15 SETH D. HARRIS, Acting Secretary of
16 Labor, United States Department of
Labor,

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18 Plaintiff,

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20 v.

21 LOCAL 848, INTERNATIONAL
22 BROTHERHOOD OF TEAMSTERS,

23 Defendant.
24

25 WALT JOHNSON,
26 Intervener, Plaintiff
27
28

No. CV 12-9019 GW(SHx)

**STIPULATION REGARDING
SETTLEMENT AND REQUEST
FOR THE COURT TO RETAIN
JURISDICTION AND TO VACATE
REMAINING DATES**

**[PROPOSED] ORDER FILED
CONCURRENTLY HEREWITH]**

Pre-trial Conference: Nov. 25, 2013

Trial Date: Dec. 3, 2013

1
2 Plaintiff, Seth D. Harris, Acting Secretary of Labor ("the Secretary"),
3 defendant Local 848, International Brotherhood of Teamsters, ("Local 848"), and
4 intervener Walt Johnson by and through their undersigned counsel, hereby
5 stipulate and agree to settlement of this case on the following terms and conditions.

6 1. This action was brought by the Secretary pursuant to Title IV of the
7 Labor-Management Reporting and Disclosure Act of 1959 (as amended), 29
8 U.S.C. § 401, et seq., ("Act" or "LMRDA"), for the purpose of voiding the results
9 of the December 1, 2011 election of union officers for the offices of President,
10 Vice President, Recording Secretary, Secretary-Treasurer, and three (3) Trustees
11 conducted by Local 848 and requesting a new election under the supervision of the
12 Secretary of Labor.

13 2. In the Complaint, the Secretary alleged that during the conduct of the
14 aforesaid election, Local 848 violated:

15 a. Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), which
16 provides that every union member in good standing has the right to vote for or
17 otherwise support the candidate or candidates of his choice, without being subject
18 to penalty, discipline, or improper interference or reprisal of any kind by the union
19 or any union member, by subjecting the administrative complainant and her slate to
20 a pre-election trial for their campaign speech.

21 b. Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), which
22 requires a union to provide adequate safeguards to insure a fair election, when it
23 failed to remove its overturned Election Committee decision from Defendant's
24 bulletin boards, thereby allowing the decision to cast a negative view of the
25 administrative complainant and her slate.

26 c. Section 401(e) of the LMRDA, 29 U.S.C. § 481(e), which
27 requires a union to conduct its elections "in accordance with the constitution and
28 bylaws of such organization," by failing to adhere to the voter eligibility

1 requirements set forth in the Defendant's Bylaws and International Constitution
2 resulting in ineligible members being permitted to vote.

3 3. Local 848 does not admit that it violated any of the aforementioned
4 provisions of Title IV in its December 1, 2011 election.

5 4. The Parties, in settlement of this action, hereby stipulate and agree that
6 Local 848 will conduct, under the supervision of the Secretary of Labor, nominations and
7 an election for all officer positions, to be completed by December 2013. Nominations
8 will occur in November 2013. The winners of the supervised election shall be installed
9 no later than January 1, 2014 and they shall serve the full three (3)-year term as specified
10 in defendant's Constitution and By-Laws.

11 5. The supervised election shall be conducted in accordance with Title
12 IV of the Act (29 U.S.C. § 481, *et seq.*) and, insofar as lawful and practicable, in
13 accordance with the Constitution of the International Brotherhood of Teamsters
14 (IBT) and the Bylaws of Local 848. The Secretary will appoint an election
15 supervisor to be responsible for the conduct of the supervised election, who will
16 coordinate with the duly appointed Election Committee of Local 848 in the
17 conduct of the election.

18 6. The parties agree that an election company will conduct the election.
19 Local 848 and Intervener agree that Local 848 will select an election company
20 other than California Election Company to conduct the election.

21 7. All decisions as to the interpretation or application of Title IV of the
22 LMRDA, the IBT Constitution and Local 848's Bylaws relating to the supervised
23 election are to be determined by the Secretary or his agent and his decision shall be
24 final, except as subject to review in this Court and any subsequent appellate
25 review. The Secretary will accept the interpretation consistently placed on a
26 union's constitution and bylaws by the responsible union official or governing
27 body unless the interpretation is clearly unreasonable.
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1 8. The parties request that the Court retain jurisdiction of this action so
2 that the procedures specified in 29 U.S.C. § 482(c) regarding the Secretary's
3 certification of the election to the Court and the Court's entry of a decree may be
4 completed. After the completion of the supervised election, the Secretary shall
5 certify to the Court the names of the persons so elected, that such election was
6 conducted in accordance with Title IV of the Act, and, insofar as lawful and
7 practicable, that the election was conducted in accordance with the provisions of
8 the IBT Constitution and Local 848's Bylaws. Upon approval of such certification
9 by the Court, the Court shall enter a Judgment declaring that such persons have
10 been elected as shown by such certification to serve a full term of office pursuant
11 to 29 U.S.C. § 482(c)(2) of the LMRDA.

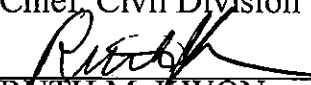
12 9. By entering into this stipulation of settlement, the parties have
13 resolved the controversy between them, and the only issue remaining is
14 certification of the supervised election as provided for in the paragraph above. The
15 parties, therefore, request that the Court vacate all remaining dates in this action,
16 including the discovery, motion filing, pre-trial, and trial dates.

17 10. Each party shall bear its own fees, costs and other expenses incurred
18 by such party in connection with any stage of this proceeding.

19 Dated: July 10, 2013

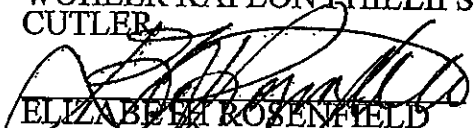
Respectfully submitted,

20 ANDRÉ BIROTTE JR.
21 United States Attorney
22 LEON W. WEIDMAN
23 Assistant United States Attorney
24 Chief, Civil Division

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26 RUTH M. KWON
27 Assistant United States Attorney
28 Attorneys for Plaintiff Seth D. Harris,
 Acting Secretary of Labor, United States
 Department of Labor

1 Dated: July 9, 2013

WOHLER KAPLON PHILLIPS YOUNG &
CUTLER

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3 
4 ELIZABETH ROSENFIELD
Attorneys for defendant Local 848,
International Brotherhood of Teamsters

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8 Dated: July ____, 2013

HAYES & CUNNINGHAM, LLP

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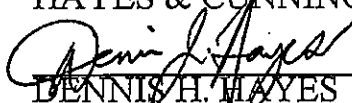
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